

Serial No. 09/939,535

Docket No.: KCC-16,221

**REMARKS**

Applicants' undersigned attorney thanks the Examiner for her comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 1, 2, 4, 6, 9-12, 14-20, 26-33, 35-43, 57, 58, 60-63, 65, 68-70, and 72-77 are pending, with Claims 1, 2, 4, 6, 9-12, 14-20, 27-33, and 35-42 withdrawn from consideration.

**Amendment to the Claims**

Claims 26, 43, 57, 58, 60-63, 65, 68-70, and 72-77 have been examined with no claims being allowed. Applicants have amended Claim 26 to clarify that the surface areas recited in the claim encompass the entire surface area of the respective layer. Support for this limitation is provided at page 13, lines 11-15, and at page 27, lines 17-20, for example.

Applicants have amended Claim 43 to specify that the separate pieces of the lower layer are adjacent to a continuous length of the drum-formed upper layer. Support for this limitation is provided at page 27, lines 16-20, for example.

No new matter has been added by this Amendment. No additional fee is due for this Amendment because the number of independent claims remains unchanged and the total number of claims also remains unchanged.

**Notice of References Cited**

Applicants note that the Examiner has cited U.S. Patent No. 5,484,430 issued to Osborn, III, in a rejection under 35 U.S.C. §103(a). However, this reference does not appear to have been cited in any Information Disclosure Statements filed by Applicants nor in any Notices of References Cited by the Examiner. Therefore, Applicants respectfully request a Notice of References Cited (Form PTO-892) citing this reference to ensure that this reference appears on the face of any patents issuing from the present application.

Serial No. 09/939,535

Docket No.: KCC-16,221

**Claim Rejections - 35 U.S.C. §102**

The rejection of Claims 26, 57-58, 60-63, and 68 under 35 U.S.C. §102(b) as being anticipated by Everett et al. (PCT Publication No. WO 99/17695, hereinafter "Everett") is respectfully traversed, particularly in view of the above Amendment and the following remarks.

Everett discloses a multi-layer absorbent core. Everett does not disclose each and every element or limitation of Applicants' independent Claim 26.

Applicants have once again amended independent Claim 26 to more clearly convey that the *bottom surface area* of the upper layer is greater than the *top surface area* of the lower layer. The "bottom surface area" of the upper layer and the "top surface area" of the lower layer have been defined in Claim 26 as encompassing an entire bottom/top surface of the respective layer.

Applicants agree with the Examiner's previous statement on page 8 of the Office Action mailed 01 December 2004: "Everett does not disclose the upper layer has a bottom surface area greater than a surface area of the top surface of the lower layer."

In accordance with the Examiner's earlier statement, Applicants concur that Everett fails to disclose the bottom surface area of an upper layer that is greater than the top surface area of a lower layer. Instead, Everett discloses that the upper layer is either the same size or *smaller* than the lower layer.

For at least the reasons presented above, Applicants respectfully submit that Claim 26 is not anticipated by Everett. Because Claims 57-58, 60-63, and 68 depend from Claim 26, these claims are also not anticipated by Everett. Thus, Applicants respectfully request withdrawal of this rejection.

**Claim Rejections - 35 U.S.C. §103**

The rejection of Claims 43, 65, 69-70, and 72-77 under 35 U.S.C. §103(a) as being unpatentable over Everett in view of Osborn, III (U.S. Patent No. 5,484,430) is respectfully traversed.

Osborn, III, discloses a sanitary napkin having a discontinuous absorbent core that includes a plurality of separate pieces. There is no suggestion or

KCC-2084

11

MR/S

Serial No. 09/939,535

Docket No.: KCC-16,221

motivation to modify or combine the inventions of Everett and/or Osborn, III, to achieve an absorbent garment that includes an absorbent assembly having a drum-formed upper layer and an air-laid lower layer, both layers having equal density, wherein the lower layer includes a plurality of separate pieces placed in desired locations adjacent to the continuous upper layer of the absorbent assembly.

Everett fails to disclose any discontinuous layers. Osborn, III, discloses a single discontinuous layer, which provides the benefit of independent, unconstrained movement by each segment in the Z-direction. However, the discontinuous lower layer in Applicants' claimed invention is provided in combination with a continuous upper layer in an absorbent assembly. Thus, the upper layer may certainly inhibit the movement of each lower layer segment in the Z-direction. Since the benefits in Osborn, III, do not apply to Applicants' claimed invention, and since there is no suggestion in Everett to provide a discontinuous layer within an absorbent structure, there is no suggestion or motivation to modify the absorbent structures of Everett and/or Osborn, III, to achieve Applicants' claimed invention.

More particularly, the entire absorbent layer in Osborn, III, is discontinuous. In contrast, none of the layers in Everett are discontinuous. A combination of these references, motivated to modify the Everett absorbent structure based on the benefits taught in Osborn, III, would result in a discontinuous absorbent structure in which both layers 48 and 50 are discontinuous. There is no suggestion or motivation in either of the references, alone or in combination, to produce an absorbent structure in which one layer is discontinuous and the other layer is not.

Regarding Claim 65, which depends from Claim 26, Applicants further point out that neither Everett nor Osborn, III, alone or in combination, disclose or suggest the bottom surface area of an upper layer that is greater than the top surface area of a lower layer. As pointed out above, Everett teaches just the opposite, namely an upper layer that is either the same size or *smaller* than a lower layer. Osborn, III, fails to disclose or suggest any layers of the absorbent core having different surface areas. There is no suggestion or motivation in either Everett or Osborn, III, to

Serial No. 09/939,535

Docket No.: KCC-16,221

produce an absorbent material in which the bottom surface area of an upper layer is greater than the top surface area of a lower layer.

For at least the reasons given above, Applicants respectfully submit that the teachings of Everett in view of Osborn, III, fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

### Conclusion

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.

Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,

  
Melanie I. Rauch  
Registration No. 40,924

Pauley Petersen & Erickson  
2800 West Higgins Road, Suite 365  
Hoffman Estates, Illinois 60195  
(847) 490-1400  
FAX (847) 490-1403